REMARKS

Claims 1, 2, and 5-29 are pending. Claims 1, 18, 21, 24, 27, and 28 are amended. Claim 29 is newly added. No new matter has been added.

Claim Rejection Under 35 U.S.C. 112, First Paragraph

Claims 1-28 are rejected under 35 U.S.C. 112, first paragraph as failing to comply with the enablement requirement. The Office Action states on pages 2 and 3 that:

> The claim amendment dated 11/10/2008 added the claim features, "wherein one of the individuals of the further subset plays a number of games by betting a total amount lower than any of the individuals of the first subset that are excluded from the further subset".
>
> And, the Applicant in Remarks on 11/10/2008 stated that targeting the low patronage users is novel over the cited prior art. However, Applicant's Specification discloses targeting the higher patronage users for promotions (page 19, lines 1-8; page 5, lines 1-18). Hence, Applicant has added specifically targeting low patronage users for more promotions and stated that this targeting of low patronage users is novel. However, Applicant's Specification does not explicitly support targeting on these attributes in this manner.

Applicants respectfully traverse the rejection. Applicants respectfully submit that "providing the promotional offering as an award for one or more individuals in the further subset, wherein one of the individuals of the further subset plays a number of games by betting a total amount lower than any of the individuals of the first subset that are excluded from the further subset" as recited in claim 1 is enabled by the specification. For example, the specification describes on page 17, lines 23-24 and in table II on page 18 that:

> As an example, consider the following profiles (or gaming DNA) which are included in the results of the sample query described above with reference to 304 and 306:

Gaming DNA Type 1 Attribute Values	Gaming DNA Type 2 Attribute Values
Male	Male
Over age 40	Over age 40
Play over 10 times/month	Play over 10 times/month
Play on Saturday nights	Play on Saturday nights
Total amount played $100-$200	Total amount played $500-$600
Chinese food preference	Italian food preference

Rock'n'Roll music preference	Blues music preference

Table II

Further, the specification describes on page 19, lines 4-7 that "[i]n addition, promotional offerings such as free dinners and shows can be more specifically tailored for each customer, e.g., an Italian dinner or Blues show for type 2 individuals versus a Chinese dinner or a Rock'n'Roll show for a type I individual."

Accordingly, the specification describes *providing a promotional offering*, such as the Chinese dinner or the Rock'n'Roll, *shown as an award for one or more individuals*, such as the type I individual, *in the further subset, where one of the individuals of the further subset plays a number of games by betting a total amount*, such as $100-$200, *lower than any of the individuals*, such as the type II individual, *of the first subset that are excluded from the further subset* (*Emphasis added* to distinguish the recitation of claim 1 from the examples in this sentence). Hence, the specification provides an example of "providing the promotional offering as an award for one or more individuals in the further subset, wherein one of the individuals of the further subset plays a number of games by betting a total amount lower than any of the individuals of the first subset that are excluded from the further subset". Thus, Applicants respectfully submit that claim 1 is enabled by the specification.

For at least the reasons set forth above with respect to claim 1, similar features of remaining independent claims 18, 21, 24, and 27 are also enabled by the specification. Claims 3 and 4 are canceled. Claims 2, 5-17, and 28 depend from independent claim 1, claims 19-20 depend from independent claim 18, claims 22 and 23 depend from independent claim 21, claims 25 and 26 depend from independent claim 24. Hence, Applicants respectfully request that the Section 112, paragraph 1 rejection of claims 1-28 be withdrawn.

Section 103 Rejection

Claims 1-28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dandurand ("Market Niche Analysis In the Casino Gaming Industry," Journal of Gambling Studies, Vol. 6(1), Spring 1990), in view of Sheppard (U.S. Patent No. 6,026,397).

Dandurand describes performing a market niche analysis in the casino gaming industry (page 1). To perform the analysis, data was generated through a Las Vegas Visitor Profile Study for the fiscal year 1986 (page 83). The "analysis has limitations" (page 84). The analysis "requires ample time, sufficient resources, substantial research, and heroic data interpretation" (page 84). "Planning staff have many objectives to achieve with limited research budgets"

(pages 84-85). "Different analysts produce various interpretations of the data" (page 85). The market niche analysis includes generating a premium niche profile include a plurality of variables including female, age, race, marital status, and gambling budget (page 83)..

Sheppard describes a data analysis system 10, shown below in Figure 1, that includes a processor 12 and a random access memory (col. 6, lines 26-28).

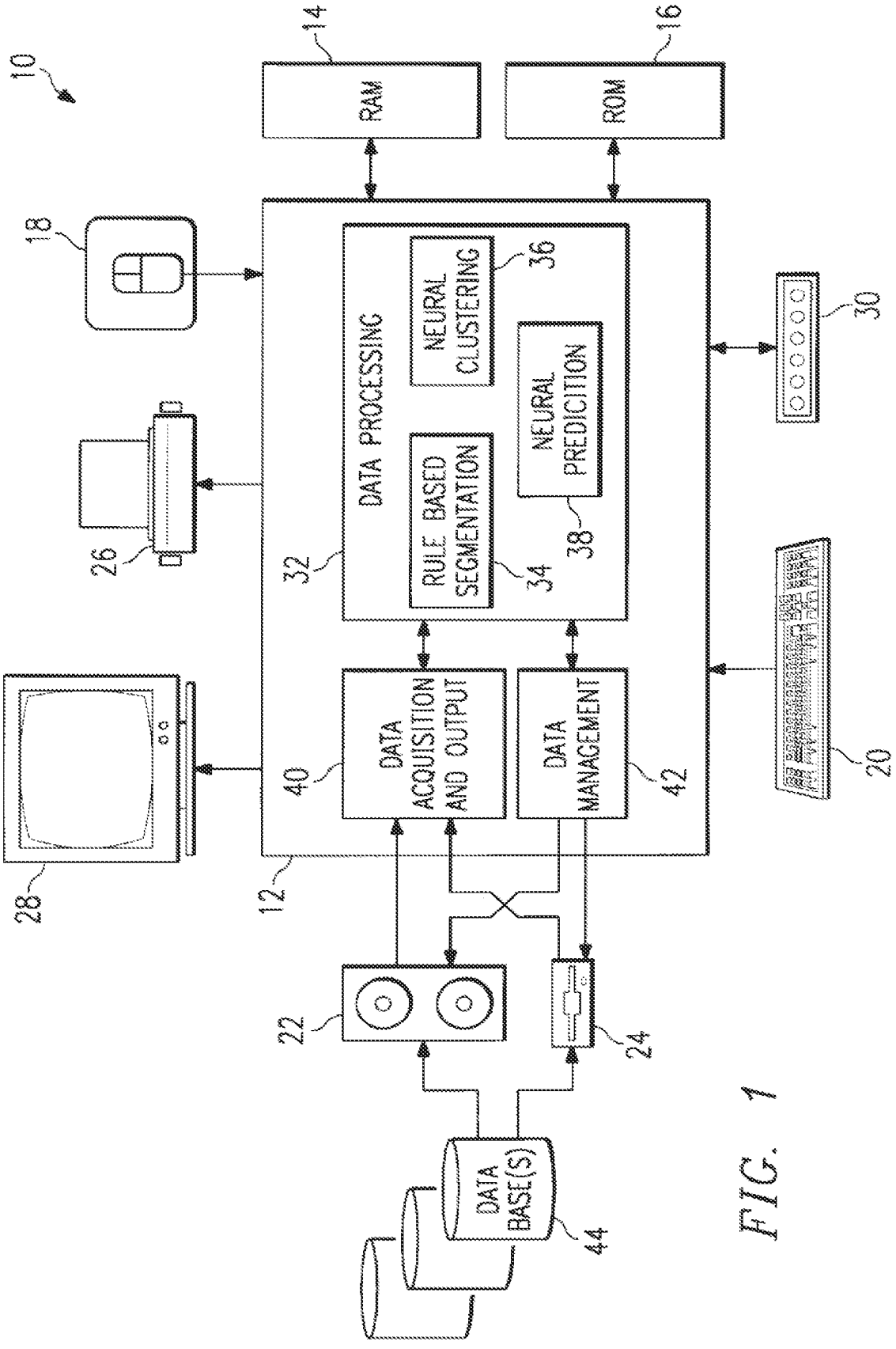
10
14
RAM
16
ROM
18
30
26
32
DATA PROCESSING
NEURAL CLUSTERING
36
NEURAL PREDICITION
RULE BASED SEGMENTATION
34
38
20
28
12
40
DATA ACQUISITION AND OUTPUT
DATA MANAGEMENT
42
22
24
DATA BASE(S)
44

FIG. 1

The processor 12 supports a data processor 32 that uses a "data acquisition and output function 40 and data management function 42 to receive and manipulate data in performing data analysis. Such data is typically found in one or more database(s) 44 that may be stored on tape drive 22 or disk drive(s) 24. Data acquisition and output function 40 is responsible for receiving data from database(s) 44 and formatting the data for processing by data processor 32" (col. 4, lines 50-52, lines 54-62). The "data acquisition and output function 40 receives customer data in a flat ASCII format from database(s) 44 and converts it into a concise internal binary form for use by data processor 32" (col. 4, lines 62-66). The "[d]ata acquisition and output function 40 preferably includes a data dictionary function that allows for setting up and customizing parameter names for all of the parameters in a given database" (col. 4, line 66 – col. 5, line 2)

"[I]n using data analysis system 10 in FIG. 1, a input data set or file may be retrieved from database(s) 44 stored in tape drive 22 or disk drive(s) 24" (col. 6, lines 14-16). The "data acquisition and output function 40 of system 10 provides the necessary data input capability to convert raw data in database(s) 44 into a form that can be used by data processor 32" (col. 6, lines 16-21).

Neither Dandurand nor Sheppard, considered alone or in combination, describe or suggest a computer-implemented method for analyzing data as recited in claim 1. For example, neither Dandurand nor Sheppard, considered alone or in combination, describe or suggest "*identifying further selected ones of the plurality of attributes that are received via the card reader and the player tracking server* and that are shared by the individuals in the further subset *to define a promotional offering in association with the identified further selected ones of the plurality of attributes* shared by the individuals in the further subset" as recited in claim 1 (*Emphasis added*).

Rather, Dandurand describes generating a premium niche profile through a Las Vegas Visitor Profile Study conducted in 1986. The profile includes a plurality of variables that include a gambling budget. Sheppard describes using a data acquisition and output function and a data management function to receive data from a database and manipulate the data to perform data analysis. A data processor uses the data acquisition and output function.

The description of the variables generated through the Las Vegas Profile Study in Dandurand and the description of the performance of the data analysis upon acquisition of data from the database by the data processor in Sheppard does not suggest the attributes *that are received via the card reader and the player tracking server* (*Emphasis added*). Further, the description of generating the premium niche profile from the Las Vegas Profile Study in Dandurand and the description of performing the data analysis by obtaining the data from the

database in Sheppard does not describe or suggest *identifying further selected ones of the plurality of attributes that are received via the card reader and the player tracking server* as recited in claim 1 (*Emphasis added*).

Not only there is no suggestion of the player tracking server and the card reader in Dandurand and Sheppard but also there is no description or suggestion of "*identifying further selected ones of the plurality of attributes that are received via the card reader and the player tracking server* and that are shared by the individuals in the further subset *to define a promotional offering in association with the identified further selected ones of the plurality of attributes* shared by the individuals in the further subset" (*Emphasis added*).

Hence, for at least the reasons set forth above, neither Dandurand nor Sheppard, considered alone or in combination, describe or suggest "*identifying further selected ones of the* plurality of attributes *that are received via the card reader and the player tracking server* and that are shared by the individuals in the further subset *to define a promotional offering in association with the identified further selected ones of the plurality of attributes shared by the individuals in the further subset*". Thus, claim 1 is patentable over Dandurand in view of Sheppard.

Independent claims 18 and 27 recite features similar to those defined in claim 1. Therefore, claims 18 and 27 are believed to be allowable for at least those reasons stated above in support of claim 1.

Further, neither Dandurand nor Sheppard, considered alone or in combination, describe or suggest a method for providing software via a wide area network as recited in claim 21. For example, for at least the reasons set forth above neither Dandurand nor Sheppard, considered alone or in combination, describe or suggest "*comparing selected ones of the plurality of attributes that are received via the card reader and the player tracking server* and that are associated with each of a first subset of the individuals with the selected attributes associated with others of the first subset of individuals, *wherein said comparing selected ones of the plurality of attributes is performed to determine at least one difference among the plurality of attributes according to which the first subset of individuals may be divided into further subsets of the individuals*, the at least one difference determined based on the plurality of attributes received via the player tracking system" (*Emphasis added*).

Independent claim 24 recites features similar to those defined in claim 21. Therefore, claim 24 is believed to be allowable for at least those reasons stated above in support of claim 21.

The various pending dependent claims include the limitations of the corresponding independent claims. Accordingly, dependent claims 2, 5-17, 19, 20, 22, 23, 25, 26, and 28 are patentable over Dandurand in view of Sheppard. Hence, for at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of claims 1-28 be withdrawn.

Claim 3

Applicants respectfully traverse the statement in the Office Action regarding claim 3. Specifically, the Office Action states on pages 11 and 12:

> 6. Regarding claim 3, applicant teaches that the "query" attribute that is used to create the "first subset" is part of the "selected attributes." The query attribute in claim 2 is used to create a "first subset" whereby all individuals in this group have at least the "query attribute." However, applicant states in claim 1 that the "selected attributes" are compared in order to determine a "difference" between individuals. It is unclear to the examiner how it would be possible to have a query attribute that is used to find similar individuals also be in the group of attributes that is used to find "difference[s]" between individuals.

Applicants respectfully submit that claim 3 is canceled.

Official Notice

Applicants respectfully traverse the statements in the Office Action that a player tracking system is well-known. Specifically, the Office Action states on pages 7 and 8 that:

Additionally, Dandurand does not explicitly disclose a player tracking system from which user attributes can be received.

However, the combination of the prior art renders obvious a player tracking system from which user attributes can be received.

Applicant's Specification states that a player tracking system is obvious, old, and well known:

"The management and analysis of data has long been important to many industries. As such many methodologies have been developed over the years that are oriented towards utilizing the relational aspects of collected data and data presentation for a variety of applications. The gaming industry is among those industries where the analysis of collected data is extremely important to optimizing marketing campaigns that directly affect the company's bottom line. Within the gaming industry data are collected as players play games on the casino floor. These data are commonly referred to as player tracking information. This player tracking information is combined together with fundamental player related data elements such as city/state, age, income, etc., to form player data relationships. Using these player data relationships, casinos can combine the data collected from tracking the game play of specific players and target those players with specific marketing campaigns organized in an attempt to increase revenue for the casino" ("Background of the Invention", pages 1-2).

. . .

And, Dandurand's disclosure is oriented towards gaming and casinos, "Market Niche Analysis In the Casino Gaming Industry".

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Dandurand can use the obvious, old, and well known user information gathering or player tracking system of the Applicant's Background to collect data for use with Dandurand's observation and deduction methods for determining target niches.

Applicants respectfully submit that according to the Office Action, the player tracking system as described in the Background of the present patent application is well-known. The

Office Action does not suggest that the player tracking system as recited in claim 1 is well-known. If the Examiner intended otherwise, Applicants respectfully request the Examiner to describe so.

Specifically, Applicants requestfully request that the Examiner provide a reference describing "*identifying further selected ones of the plurality of attributes that are received via the card reader and the player tracking server* and that are shared by the individuals in the further subset *to define a promotional offering in association with the identified further selected ones of the plurality of attributes shared by the individuals in the further subset*".

As explained above, neither Dandurand nor Sheppard, considered alone or in combination, describe or suggest the computer-implemented method of claim 1, the player tracking system of claim 18, the method of claim 21, the computer-implemented method of claim 24, and the computer-implemented method of claim 27. Rather, Dandurand describes generating a premium niche profile having a gambling budget by conducting a Las Vegas Visitor Profile Study and Sheppard describes using a data acquisition and output function to receive data from a database. In Sheppard, a data processor uses the data acquisition and output function.

Applicants respectfully assert, under MPEP §2144.03:

> *It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known . . . If official notice is taken of a fact, unsupported by documentary evidence, the technical line of reasoning underlying a decision to take such notice must be clear and unmistakable . . . It is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based...*
>
> (Emphasis added).

In the present case, the Examiner has provided no documentary evidence, nor has the Examiner provided any clear and unmistakable technical line of reasoning which supports the identification process as is recited in claim 1, the central processing unit operable to identify as recited in claim 18, the comparison process as recited in claim 21, the comparison process as recited in claim 24, and the identification process as recited in claim 27.

Therefore, Applicants respectfully request that the Examiner provide a reference that describes or suggests the computer-implemented method of claim 1, the player tracking system of claim 18, the method of claim 21, the computer-implemented method of claim 24, and the computer-implemented method of claim 27.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. Applicants herewith petition for a one-month extension of time. Early favorable consideration of this Amendment is earnestly solicited and Applicants respectfully request that a timely Notice of Allowance be issued in this case. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (510) 663-1100.

Respectfully submitted,

/ David P. Olynick /

David. P. Olynick
Registration No. 48,615
Weaver Austin Villeneuve & Sampson LLP
P.O. Box 70250
Oakland, CA 94612-0250
(510) 663-1100